

### REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, 8, 9, 11, 12, and 60 are pending in the present application. Claims 1 and 8 are amended, Claims 5, 14, and 59 are canceled without prejudice, and Claim 60 is added by the present amendment.

In the outstanding Office Action, Claims 1, 5, 8, 9, 14, and 59 were rejected under 35 U.S.C. § 102(e) as anticipated by Ohnuki et al. (U.S. Patent No. 6,160,769, herein "Ohnuki"); Claims 1, 5, 8, 9, and 14 were rejected under 35 U.S.C. § 102(b) as anticipated by Ueno et al. (U.S. Patent No. 5,234,737, herein "Ueno"); Claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ohnuki and Ueno in view of Kikuchi et al. (U.S. Patent No. 4,711,821, herein "Kikuchi"); and Claim 59 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ueno and Applicants' admitted art (AAA).

Claims 1, 5, 8, 9, 14, and 59 were rejected under 35 U.S.C. § 102(e) as anticipated by Ohnuki. That rejection is respectfully traversed.

Independent Claim 1 is amended to recite a metal reflective layer, first and second protective layers made of  $\text{ZnSiO}_2$ , a recording layer that changes a complex index of refraction under light, and a transparent heat radiating layer that has a heat conductivity higher than the second protective layer. The claim amendments find support in Figure 6 and in the specification, for example at page 9, lines 17-20, and at page 19, lines 19-24. No new matter is believed to be added.

Briefly recapitulating, amended independent Claim 1 includes a substrate, a metal reflective layer formed on the substrate, a first protective layer of  $\text{ZnSiO}_2$  formed on the metal reflective layer, a recording layer formed on the first protective layer, a second

protective layer of  $\text{ZnSiO}_2$  formed on the recording layer, and a transparent heat radiating layer formed on the second protective layer. Further, the transparent heat radiating layer has a heat conductivity higher than the second protective layer to disperse heat from the recording layer.

In a non-limiting example, Figure 6 shows the substrate 61, the reflective layer 62, the first protective layer 63, the recording layer 64, the second protective layer 65, and the transparent heat radiating layer 66.

Turning to the applied art, Ohnuki shows in Figure 10 a substrate 111, a reflective layer 112, a first dielectric layer 113 made of SiN, a recording layer 114, a second dielectric layer 115 made of SiN, a solid protective layer 116 made of diamond-like carbon, and a lubricant layer 117 made of silicon. However, Ohnuki does not teach or suggest (i) first and second protective layers made of  $\text{ZnSiO}_2$ , and (ii) a transparent heat radiating layer having a heat conductivity higher than the second protective layer, as required in amended Claim 1.

Accordingly, it is respectfully submitted that independent Claim 1 and each of the claims depending therefrom patentably distinguish over Ohnuki.

Claims 1, 5, 8, 9, and 14 were rejected under 35 U.S.C. § 102(b) as anticipated by Ueno. That rejection is respectfully traversed.

Ueno shows in Figure 3 an optical recording medium having a substrate 1, two protective layers 2 made of  $\text{AlN-SiO}_2$ , a recording layer 3, a light transparent side protective layer 4 made of AlN, a reflecting layer 5, and a surface protective layer 6. However, Ueno shows in Figures 1 and 4-6 that an incident light enters the substrate side of the recording layer 3 and not the opposite side as required in amended Claim 1. In addition, Ueno does not teach or suggest (i) first and second protective layers made of  $\text{ZnSiO}_2$ , and (ii) a transparent heat radiating layer having a heat conductivity higher than the second protective layer, as also required in amended Claim 1.

Accordingly, it is respectfully submitted that independent Claim 1 and each of the claims depending therefrom patentably distinguish over Ueno.

Claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ohnuki and Ueno in view of Kikuchi. That rejection is respectfully traversed.

The outstanding Office Action relies on Kikuchi for teaching an antireflection layer. However, Kikuchi does not overcome the deficiencies of Ohnuki and Ueno discussed above. In addition, Claims 11 and 12 depend from independent Claim 1, which is believed to be allowable as noted above. Accordingly, it is respectfully submitted that dependent Claims 11 and 12 are also allowable.

Claim 59 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ueno and AAA. That rejection is moot because Claim 59 has been canceled.

New Claim 60 has been added to set forth the invention in a varying scope and Applicants respectfully submit the new claim is supported by the originally filed specification. In particular, Claim 60 depends from independent Claim 1 and finds support in the specification at page 21, line 17, to page 22, line 1. No new matter is believed to be added. Accordingly, it is respectfully submitted new Claim 60 is allowable for similar reasons as discussed above.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/03)  
BDL/RFF/ys



---

Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073